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REED SMITH LLP 2500 ONE LIBERTY PLACE 1650 MARKET STREET PHILADELPHIA, PA 19103			FOWLKES, ANDRE R	
			ART UNIT	PAPER NUMBER
			2122	

DATE MAILED: 12/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/799,950

Applicant(s)

HERRICK, JOSEPH W.

Examiner

Andre R. Fowlkes

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 8/23/04.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-64 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-64 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 6/11/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. Claims 1-64 are pending.

### *Drawings*

2. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the drawings are informal. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-16, 20-44 and 47-64 are rejected under 35 U.S.C. 102(b) as being anticipated by Fawcett, U.S. Patent No. 5,845,077.

As per claim 1, Fawcett discloses a **method for applying software upgrades to a networked computer**, (col. 1:9-14, "the (present) invention relates to a remote

system that inventories software installed on a computer, identifies additional software that may be appropriate for the computer (e.g. patches, fixes, new versions of existing software, new software, etc.), and makes the identified software available to that computer”), **comprising the steps of:**

**- running an executable program on a target network computer to determine the configuration of at least one installed software package on the target computer** (col. 1:10-12, “(a) system that inventories software installed on a computer”),

**- comparing the determined configuration to a list of current configurations for installed software** (col. 2:32-43, “The data collected from the inventory of the user computer software (i.e. the build level) is then used to make comparisons to database entries from a database on the update service computer (i.e. the compliance level). The database entries contain information about computer software available on the update service computer. The comparison is conducted to identify software available from the remote update service that might be appropriate for installation on the user computer (i.e. new computer software, new versions of existing computer software, patches or fixes for existing computer software, new help files, etc.)”),

**- determining whether the current configuration of the at least one installed software package is the current configuration for the installed software package** (col. 2:32-45, “The data collected from the inventory of the user computer software is then used to make comparisons to database entries from a database on the update service computer. The database entries contain information about computer software

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available on the update service computer. The comparison is conducted to identify software available from the remote update service that might be appropriate for installation on the user computer (i.e. new computer software, new versions of existing computer software, patches or fixes for existing computer software, new help files, etc.). After the comparison is completed, the update service computer makes the computer software stored at the remote update service computer available to the user”),

**- when said determination determines that the configuration of the at least one installed software package is not the most current configuration, causing the target server to obtain and run any necessary software upgrades necessary to bring the configuration of the at least one installed software package to current configuration** (col. 2:42-45, “After the comparison is completed, the update service computer makes the computer software stored at the remote update service computer available to the user”).

As per claim 2, Fawcett discloses **a process for upgrading software resident on a networked computer**, (col. 1:9-14, “the (present) invention relates to a remote system that inventories software installed on a computer, identifies additional software that may be appropriate for the computer (e.g. patches, fixes, new versions of existing software, new software, etc.), and makes the identified software available to that computer”), **said process comprising the steps of:**

**- executing a computer program on a networked computer to determine operating versions of at least an installed software component** (col. 1:10-12, “(a)

system that inventories software (to determine the operating version(s) of a software component) installed on a computer”),

- **comparing the determined operating versions to a current software version list** (col. 2:32-43, “The data collected from the inventory of the user computer software is then used to make comparisons to database entries from a database on the update service computer. The database entries contain information about computer software available on the update service computer. The comparison is conducted to identify software available from the remote update service that might be appropriate for installation on the user computer (i.e. new computer software, new versions of existing computer software, patches or fixes for existing computer software, new help files, etc)”),

- **identifying software components with operating versions discrepant from the current software version list** (col. 2:37-42, “to identify software available from the remote update service that might be appropriate for installation on the user computer (i.e. new computer software, new versions of existing computer software, patches or fixes for existing computer software, new help files, etc)”),

- **upgrading discrepant software on the networked computer** (col. 2:42-45, “After the comparison is completed, the update service computer makes the computer software stored at the remote update service computer available to the user”).

As per claim 3, the rejection of claim 1 is incorporated, and further Fawcett discloses **generating a list of discrepant software** (col. 2:32-43, “The data collected

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from the inventory of the user computer software is then used to make comparisons to database entries from a database on the update service computer (to generate a list of discrepant software). The database entries contain information about computer software available on the update service computer. The comparison is conducted to identify software available from the remote update service that might be appropriate for installation on the user computer (i.e. new computer software, new versions of existing computer software, patches or fixes for existing computer software, new help files, etc)").

As per claim 4, the rejection of claim 1 is incorporated, and further Fawcett discloses **determining the required update for discrepant software** (col. 2:37-42, "to identify software available from the remote update service that might be appropriate for installation on the user computer (i.e. new computer software, new versions of existing computer software, patches or fixes for existing computer software, new help files, etc)").

As per claim 5, the rejection of claim 1 is incorporated, and further Fawcett discloses that **the networked computer resides on an internal network** (col. 4:33-36, "The input/output devices 18, 20 can also include network connections, modems, or other devices used for communications with other computer systems or devices").

As per claim 6, the rejection of claim 1 is incorporated, and further Fawcett discloses that **the networked computer resides on an open network** (col. 5:11-13, "The update service center may also be connected to a remote network (e.g. the Internet) or a remote site").

As per claim 7, the rejection of claim 6 is incorporated, and further Fawcett discloses that **the open network is the internet** (col. 5:11-13, "The update service center may also be connected to a remote network (e.g. the Internet) or a remote site").

As per claim 8, the rejection of claim 1 is incorporated, and further Fawcett discloses that **the networked computer is a server** (col. 4:27-28, "The connections are managed by an update server").

As per claim 9, the rejection of claim 1 is incorporated, and further Fawcett discloses that **the networked computer is a workstation** (col. 3:66-4:1, "an operating environment for the illustrated embodiment of the present invention is a computer system 10 with a computer (i.e. workstation)").

As per claim 10, the rejection of claim 1 is incorporated, and further Fawcett discloses **controlling the update operations from an administrative server, wherein the administration server is communicatively coupled to the network suitable for transferring files to the networked computer** (col. 4:27-28, "The



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connections are managed by an update server (that is coupled to the networked computer)").

As per claim 11, the rejection of claim 10 is incorporated, and further Fawcett discloses that **the file transfer occurs through one of at least remote control of hardware or software** (col. 5:11-13, "The update service center may also be connected to a remote network (e.g. the Internet) or a remote site").

As per claim 12, the rejection of claim 1 is incorporated, and further Fawcett discloses that **the software upgrades are stored on one of at least a library server and administrative server** (col. 5:16-19, "One or more databases 42 connected to the update center computer(s) 40 are used to store database entries consisting of computer software available on the update service computer(s) (i.e. library/administrative server)").

As per claim 13, the rejection of claim 1 is incorporated, and further Fawcett discloses **executing commands suitable to cause the networked computer to access a remote storage site, and download and install a software program capable of determining the identity and configuration of software installed on the networked computer** (col. 1:9-14, "the (present) invention relates to a remote system that inventories (the identity and configuration of) software installed on a computer, identifies additional software that may be appropriate for the computer (e.g. patches,

fixes, new versions of existing software, new software, etc.), and makes the identified software available to that computer”).

As per claim 14, the rejection of claim 1 is incorporated, and further Fawcett discloses **compiling the determined operating versions into a list** (col. 1:9-14, “the (present) invention relates to a remote system that inventories (i.e. lists) software installed on a computer, identifies additional software that may be appropriate for the computer (e.g. patches, fixes, new versions of existing software, new software, etc.), and makes the identified software available to that computer”).

As per claim 15, the rejection of claim 14 is incorporated, and further Fawcett discloses **reporting the list to an administrative computer** (col. 1:9-14, “the (present) invention relates to a remote system (i.e. administrative computer) that inventories software installed on a computer, identifies additional software that may be appropriate for the computer (e.g. patches, fixes, new versions of existing software, new software, etc.), and makes the identified software available to that computer”).

As per claim 16, the rejection of claim 15 is incorporated, and further Fawcett discloses **formatting the list in a format suitable to be read by software operating on an administrative computer** (col. 1:9-14, “the (present) invention relates to a remote system (i.e. administrative computer) that inventories software installed on a computer, identifies additional software that may be appropriate for the computer (e.g.

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patches, fixes, new versions of existing software, new software, etc.), and makes the identified software available to that computer”).

As per claim 20, the rejection of claim 1 is incorporated, and further Fawcett discloses that **the current software version list is based on software installed on the networked computer** (col. 1:9-14, “the (present) invention relates to a remote system that inventories software installed on a computer, identifies additional software that may be appropriate for the computer (e.g. patches, fixes, new versions of existing software, new software, etc.), and makes the identified software available to that computer”).

As per claim 21, the rejection of claim 20 is incorporated, and further Fawcett discloses that **the current software version list is substantially developed by parsing the operating versions of the software installed on the networked computer and the current software version list** (col. 1:9-14, “the (present) invention relates to a remote system that inventories software installed on a computer, identifies additional software that may be appropriate for the computer (e.g. patches, fixes, new versions of existing software, new software, etc.), and makes the identified software available to that computer”).

As per claim 22, the rejection of claim 1 is incorporated, and further Fawcett discloses that **the current software version list is based on an externally generated**

**list** (col. 6:29-32, "In addition, the availability of agent help files, wizards, inference engine, and other operating system components will be listed in the summary (externally generate list)").

As per claim 23, the rejection of claim 22 is incorporated, and further Fawcett discloses that **the externally generated list is generated by a system administrator** (col. 6:29-32, "In addition, the availability of agent help files, wizards, inference engine, and other operating system components will be listed in the summary (externally generate list)").

As per claim 24, the rejection of claim 22 is incorporated, and further Fawcett discloses that **the version list includes at least one older version of a software package, said older version suitable for maintaining compatibility with a proprietary software package** (col. 1:9-14, "the (present) invention relates to a remote system that inventories software installed on a computer, identifies additional software that may be appropriate for the computer (e.g. patches, fixes, new versions of existing software, new software, etc.), and makes the identified software available to that computer").

As per claim 25, the rejection of claim 1 is incorporated, and further Fawcett discloses that **identifying includes generating an update list of software to be upgraded to reach the current software version list** (col. 1:9-14, "the (present)

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invention relates to a remote system that inventories software installed on a computer, identifies additional software that may be appropriate for the computer (e.g. patches, fixes, new versions of existing software, new software, etc.), and makes the identified software available to that computer”).

As per claim 26, the rejection of claim 25 is incorporated, and further Fawcett discloses that **the update list identifies the current software version list and the determined operating versions** (col. 1:9-14, “the (present) invention relates to a remote system that inventories software installed on a computer, identifies additional software that may be appropriate for the computer (e.g. patches, fixes, new versions of existing software, new software, etc.), and makes the identified software available to that computer”).

As per claim 27, the rejection of claim 25 is incorporated, and further Fawcett discloses that **the update list is limited to discrepant software** (col. 1:9-14, “the (present) invention relates to a remote system that inventories software installed on a computer, identifies additional software that may be appropriate for the computer (e.g. patches, fixes, new versions of existing software, new software, etc.), and makes the identified software available to that computer”).

As per claim 28, the rejection of claim 25 is incorporated, and further Fawcett discloses that **the update list includes at least one intermediate version suitable for**

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**reaching the current software version** (col. 1:9-14, "the (present) invention relates to a remote system that inventories software installed on a computer, identifies additional software that may be appropriate for the computer (e.g. patches, fixes, new versions of existing software, new software, etc.), and makes the identified software available to that computer").

As per claim 29, the rejection of claim 28 is incorporated, and further Fawcett discloses that **the update list is sequenced to identify that the intermediate version be installed before the current software version** (col. 1:9-14, "the (present) invention relates to a remote system that inventories software installed on a computer, identifies additional software that may be appropriate for the computer (e.g. patches, fixes, new versions of existing software, new software, etc.), and makes the identified software available to that computer", and patches must be installed to update software before other updates are made).

As per claim 30, the rejection of claim 25 is incorporated, and further Fawcett discloses that **the update list is communicatively coupled to a program for generating an update script** (col. 8:64-9:7, "a logon script (is created) using an automated macro language to provide the logon sequence to be used, and the directory to be used to download the software chosen by the user. The logon script and the time the user wishes to have the chosen software downloaded are then sent to the update service computer, and stored in an update service computer database. At the

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appropriate time chosen by the user, the update service will execute the logon script to re-connect to the user computer, and download the chosen software in the proper directory.”).

As per claim 31, the rejection of claim 30 is incorporated, and further Fawcett discloses that **the update script is installed on the networked computer suitable to cause the networked computer to download and install updates to installed software component consistent with the current software version list** (col. 8:64-9:7, “a logon script (is created) using an automated macro language to provide the logon sequence to be used, and the directory to be used to download the software chosen by the user. The logon script and the time the user wishes to have the chosen software downloaded are then sent to the update service computer, and stored in an update service computer database. At the appropriate time chosen by the user, the update service will execute the logon script to re-connect to the user computer, and download the chosen software in the proper directory.”).

As per claim 32, the rejection of claim 30 is incorporated, and further Fawcett discloses that **the update script is substantially generated by aggregating script modules associated with at least one required update** (col. 8:64-9:7, “a logon script (is created) using an automated macro language to provide the logon sequence to be used, and the directory to be used to download the software chosen by the user. The logon script and the time the user wishes to have the chosen software downloaded are

then sent to the update service computer, and stored in an update service computer database. At the appropriate time chosen by the user, the update service will execute the logon script to re-connect to the user computer, and download the chosen software in the proper directory.”).

As per claim 33, the rejection of claim 25 is incorporated, and further Fawcett discloses that **the networked computer generates an installation report identifying the status of at least one installation** (col. 10:6-7, “a log is created so a user can determine what available computer software was downloaded and installed”).

As per claim 34, the rejection of claim 33 is incorporated, and further Fawcett discloses that **the installation report is forwarded to an administrator** (col. 10:6-7, “a log is created so a user can determine what available computer software was downloaded and installed”).

As per claim 35, the rejection of claim 33 is incorporated, and further Fawcett discloses that **the installation report is stored for later use in determining whether additional updates are required for the networked computer** (col. 10:6-7, “a log is created so a user can determine what available computer software was downloaded and installed”).



As per claim 36, the rejection of claim 1 is incorporated, and further Fawcett discloses that **at least one of said executing, said comparing, said identifying and said upgrading occurs automatically** (col. 10:49-54, "With automatic downloading and installation of computer software from the update service, the user is relieved from the burden of obtaining computer software (e.g. on storage media, by downloading from a bulletin board or on-line service, etc.), and installing the computer software on the user computer.").

As per claim 37, the rejection of claim 1 is incorporated, and further Fawcett discloses that **said executing includes starting the computer program on the networked computer** (col. 10:49-54, "With automatic downloading and installation of computer software from the update service, the user is relieved from the burden of obtaining computer software (e.g. on storage media, by downloading from a bulletin board or on-line service, etc.), and installing the computer software on the user computer.").

As per claim 38, the rejection of claim 1 is incorporated, and further Fawcett discloses that **starting includes providing the command line to run the program at the command prompt** (col. 10:49-54, "With automatic downloading and installation of computer software from the update service, the user is relieved from the burden of obtaining computer software (e.g. on storage media, by downloading from a bulletin

board or on-line service, etc.), and installing the computer software on the user computer.”).

As per claim 39, the rejection of claim 38 is incorporated, and further Fawcett discloses that **the argument entered at the command line may be split into a string array** (col. 10:49-54, “With automatic downloading and installation of computer software from the update service, the user is relieved from the burden of obtaining computer software (e.g. on storage media, by downloading from a bulletin board or on-line service, etc.), and installing the computer software on the user computer.”).

As per claim 40, the rejection of claim 39 is incorporated, and further Fawcett discloses that **the argument is suitable for being compared to switches** (col. 10:49-54, “With automatic downloading and installation of computer software from the update service, the user is relieved from the burden of obtaining computer software (e.g. on storage media, by downloading from a bulletin board or on-line service, etc.), and installing the computer software on the user computer.”).

As per claim 41, the rejection of claim 38 is incorporated, and further Fawcett discloses that **the command line resides on the networked computer** (col. 10:49-54, “With automatic downloading and installation of computer software from the update service, the user is relieved from the burden of obtaining computer software (e.g. on

storage media, by downloading from a bulletin board or on-line service, etc.), and installing the computer software on the user computer.”).

As per claim 42, the rejection of claim 1 is incorporated, and further Fawcett discloses that **executing includes initializing the global variables on the networked computer** (col. 10:49-54, “With automatic downloading and installation of computer software from the update service, the user is relieved from the burden of obtaining computer software (e.g. on storage media, by downloading from a bulletin board or on-line service, etc.), and installing the computer software on the user computer.”).

As per claim 43, the rejection of claim 1 is incorporated, and further Fawcett discloses that **executing includes setting at least one switch indicative of the inclusion of beta updates** (col. 10:49-54, “With automatic downloading and installation of computer software from the update service, the user is relieved from the burden of obtaining computer software (e.g. on storage media, by downloading from a bulletin board or on-line service, etc.), and installing the computer software on the user computer.”).

As per claim 44, the rejection of claim 1 is incorporated, and further Fawcett discloses that **executing includes verifying the presence of components** (col. 10:49-54, “With automatic downloading and installation of computer software from the update service, the user is relieved from the burden of obtaining computer software (e.g. on

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storage media, by downloading from a bulletin board or on-line service, etc.), and installing the computer software on the user computer.”).

As per claim 47, the rejection of claim 1 is incorporated, and further Fawcett discloses that **the current software version list is downloaded to the networked computer** (col. 10:49-54, “With automatic downloading and installation of computer software from the update service, the user is relieved from the burden of obtaining computer software (e.g. on storage media, by downloading from a bulletin board or on-line service, etc.), and installing the computer software on the user computer.”).

As per claim 48, the rejection of claim 47 is incorporated, and further Fawcett discloses that **the downloaded version is compared to determine if the version is the most recent version** (col. 1:9-14, “the (present) invention relates to a remote system that inventories software installed on a computer, identifies additional software that may be appropriate for the computer (e.g. patches, fixes, new versions of existing software, new software, etc.), and makes the identified software available to that computer”).

As per claim 49, the rejection of claim 1 is incorporated, and further Fawcett discloses that **upgrading includes loading the installation software for all updates that apply to the installed software packages into a required updates collection data structure** (col. 1:9-14, “the (present) invention relates to a remote system that

inventories software installed on a computer, identifies additional software that may be appropriate for the computer (e.g. patches, fixes, new versions of existing software, new software, etc.), and makes the identified software available to that computer”).

As per claim 50, the rejection of claim 1 is incorporated, and further Fawcett discloses that **upgrading includes removing superceded updates** (col. 1:9-14, “the (present) invention relates to a remote system that inventories software installed on a computer, identifies additional software that may be appropriate for the computer (e.g. patches, fixes, new versions of existing software, new software, etc.), and makes the identified software available to that computer”).

As per claim 51, the rejection of claim 1 is incorporated, and further Fawcett discloses that **upgrading substantially occurs automatically** (col. 10:49-54, “With automatic downloading and installation of computer software from the update service, the user is relieved from the burden of obtaining computer software (e.g. on storage media, by downloading from a bulletin board or on-line service, etc.), and installing the computer software on the user computer.”).

As per claim 52, the rejection of claim 1 is incorporated, and further Fawcett discloses that **upgrading occurs through a user interface** (col. 10:49-54, “With automatic downloading and installation of computer software from the update service, the user is relieved from the burden of obtaining computer software (e.g. on storage

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media, by downloading from a bulletin board or on-line service, etc.), and installing the computer software on the user computer.”).

As per claim 53, the rejection of claim 1 is incorporated, and further Fawcett discloses that **updating includes rebooting the networked computer** (col. 10:49-54, “With automatic downloading and installation of computer software from the update service, the user is relieved from the burden of obtaining computer software (e.g. on storage media, by downloading from a bulletin board or on-line service, etc.), and installing the computer software on the user computer.”).

As per claim 54, the rejection of claim 1 is incorporated, and further Fawcett discloses that **verifying said upgraded discrepant software**. (col. 10:6-7, “a log is created so a user can determine what available computer software was downloaded and installed”).

As per claim 55, the rejection of claim 1 is incorporated, and further Fawcett discloses that **the determination of operating versions is performed substantially using the registry** (col. 6:33-35, “The illustrated embodiment of the invention is implemented in the Microsoft Windows 95 operating system by the Microsoft Corporation of Redmond, Wash.”).

As per claim 56, the rejection of claim 1 is incorporated, and further Fawcett discloses that **the determination of operating versions is performed substantially using the win 32 operating system** (col. 6:33-35, "The illustrated embodiment of the invention is implemented in the Microsoft Windows 95 operating system by the Microsoft Corporation of Redmond, Wash.").

As per claim 57, the rejection of claim 1 is incorporated, and further Fawcett discloses that **the determination of operating versions is performed substantially using the win 32 product** (col. 6:33-35, "The illustrated embodiment of the invention is implemented in the Microsoft Windows 95 operating system by the Microsoft Corporation of Redmond, Wash.").

As per claim 58, the rejection of claim 1 is incorporated, and further Fawcett discloses that **the determination of operating versions is performed substantially using service** (col. 1:9-14, "the (present) invention relates to a remote system that inventories software installed on a computer, identifies additional software that may be appropriate for the computer (e.g. patches, fixes, new versions of existing software, new software, etc.), and makes the identified software available to that computer").

As per claim 59, the rejection of claim 1 is incorporated, and further Fawcett discloses that **upgrading includes determining if an upgrade is necessary** (col. 1:9-14, "the (present) invention relates to a remote system that inventories software

installed on a computer, identifies additional software that may be appropriate for the computer (e.g. patches, fixes, new versions of existing software, new software, etc.), and makes the identified software available to that computer”).

As per claim 60, the rejection of claim 59 is incorporated, and further Fawcett discloses that **a necessary upgrade is included in the update list** (col. 1:9-14, “the (present) invention relates to a remote system that inventories software installed on a computer, identifies additional software that may be appropriate for the computer (e.g. patches, fixes, new versions of existing software, new software, etc.), and makes the identified software available to that computer”).

As per claim 61, the rejection of claim 1 is incorporated, and further Fawcett discloses that **upgrading includes determining if an upgrade is superceded** (col. 1:9-14, “the (present) invention relates to a remote system that inventories software installed on a computer, identifies additional software that may be appropriate for the computer (e.g. patches, fixes, new versions of existing software, new software, etc.), and makes the identified software available to that computer”).

As per claim 62, the rejection of claim 61 is incorporated, and further Fawcett discloses that **a superceded upgrade is excluded from the update list** (col. 1:9-14, “the (present) invention relates to a remote system that inventories software installed on a computer, identifies additional software that may be appropriate for the computer (e.g.



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patches, fixes, new versions of existing software, new software, etc.), and makes the identified software available to that computer”).

As per claim 63, this is another method version of the claimed method discussed above, in claim 1, wherein all claimed limitations have also been addressed and/or cited as set forth above. For example, see Fawcett's method for identifying and obtaining computer software from a remote computer (col. 2:24-3:43).

As per claim 64, this is a system version of the claimed method discussed above, in claim 1, wherein all claimed limitations have also been addressed and/or cited as set forth above. For example, see Fawcett's method for identifying and obtaining computer software from a remote computer (col. 2:24-3:43).

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 17-19, 45 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fawcett, U.S. Patent No. 5,845,077, in view of Livingstone, “An Overview of MSXML 4.0”, The XML.com website, O'Reilly Media, Inc.

As per claim 17, the rejection of claim 15 is incorporated, and further Fawcett doesn't explicitly disclose that **said reporting includes a tagged field format**.

However, Livingstone, in an analogous environment, discloses that **said reporting includes a tagged field format** (p. 1:24, "DHTML").

Therefore, it would have been obvious to a person of ordinary skill in the art, at the time the invention was made, to incorporate the teachings of Livingstone into the system of Fawcett to have **said reporting includes a tagged field format**. The modification would have been obvious because one of ordinary skill in the art would have wanted to be able present information/data that conforms to w3c standard, using the latest XML technologies (Livingstone, p. 1:7-8).

As per claim 18, the rejection of claim 17 is incorporated, and further Fawcett doesn't explicitly disclose that **the tagged field format is HTML**.

However, Livingstone, in an analogous environment, discloses that **the tagged field format is HTML** (p. 1:24, "DHTML").

Therefore, it would have been obvious to a person of ordinary skill in the art, at the time the invention was made, to incorporate the teachings of Livingstone into the system of Fawcett to have **the tagged field format HTML**. The modification would have been obvious because one of ordinary skill in the art would have wanted to be able present information/data in a universal format that conforms to w3c standard (Livingstone, p. 1:7-8).

As per claim 19, the rejection of claim 17 is incorporated, and further Fawcett doesn't explicitly disclose that **the tagged field format is XML**.

However, Livingstone, in an analogous environment, discloses that **the tagged field format is XML** (col. 1:10, "working with XML").

Therefore, it would have been obvious to a person of ordinary skill in the art, at the time the invention was made, to incorporate the teachings of Livingstone into the system of Fawcett to have **the tagged field format XML**. The modification would have been obvious because one of ordinary skill in the art would have wanted to be able present information/data that conforms to w3c standard, using the latest XML technologies (Livingstone, p. 1:7-8).

As per claim 45, the rejection of claim 44 is incorporated, and further Fawcett doesn't explicitly disclose that **the components include .XML format data**.

However, Livingstone, in an analogous environment, discloses that **the components include .XML format data** (col. 1:10, "working with XML").

Therefore, it would have been obvious to a person of ordinary skill in the art, at the time the invention was made, to incorporate the teachings of Livingstone into the system of Fawcett to have **the components include .XML format data**. The modification would have been obvious because one of ordinary skill in the art would have wanted to be able present information/data that conforms to w3c standard, using the latest XML technologies (Livingstone, p. 1:7-8).

As per claim 46, the rejection of claim 44 is incorporated, and further Fawcett doesn't explicitly disclose that **the components include MSXML**.

However, Livingstone, in an analogous environment, discloses that **the components include MSXML** (p. 1:23, "using MSXML").

Therefore, it would have been obvious to a person of ordinary skill in the art, at the time the invention was made, to incorporate the teachings of Livingstone into the system of Fawcett to have **the components include MSXML**. The modification would have been obvious because one of ordinary skill in the art would have wanted to be able present information/data that conforms to w3c standard, using the latest XML technologies (Livingstone, p. 1:7-8).

### ***Conclusion***

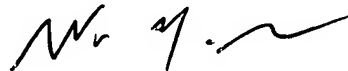
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre R. Fowlkes whose telephone number is (571) 272-3697. The examiner can normally be reached on Monday - Friday, 8:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam can be reached on (571)272-3695. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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ARF



**WEI Y. ZHEN**  
**PRIMARY EXAMINER**